

### **EXAMINER'S AMENDMENT**

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Jonathan Myers on October 30, 2007.

The application has been amended as follows:

In the claims:

Claim 1 (Amended) A filling device for capsules, ~~in particular medicament capsules,~~ containing

a first conveying device (1), which feeds a first liquid medium (2) containing the capsules (3) with a defined volume flow to a collecting vessel (17) via a first feed line (5, 6),

a detector device (12), which detects and counts the capsules (3) passing a measuring point (14) in the first feed line (5, 6),

a control device, which stops the first conveying device (1) when a predetermined number of capsules (3) is reached and compares the actual volume fed to the collecting vessel (17) with a desired volume to be put in and forms a volume difference value, and a second conveying device (1'), which feeds second liquid medium (2') to the collecting vessel (17) via a second feed

line (5', 6') as a function of the determined volume difference value until the desired volume is reached.

Claim 5 is amended to depend from claim 4 rather than from claim 3 to give proper antecedent basis in the claims.

Claim 7 is amended in line 3 to read –to a respective—rather than “to the respective” to correct antecedent basis.

Claim 9 is amended to depend from claim 4 rather than from claim 1 to give proper antecedent basis in the claims.

Claim 12 (Amended) A method for filling capsules, ~~in particular medicament capsules,~~ into a collecting vessel,  
a first liquid medium (2) containing the capsules (3) being fed with a defined volume flow to a collecting vessel (17) via a first feed line (5,6) by means of a first conveying device (1), the capsules (3) passing a measuring point (14) in the first feed line (5) being detected and counted,  
the feed of the first liquid medium (2) containing the capsules (3) being stopped when a predetermined number of capsules (3) is reached, the actual volume fed to the collecting vessel (17) being compared with a desired volume to be put in and a volume difference value being formed and,

if required, second liquid medium (2') being fed to the collecting vessel (17) via a second feed line (5', 6') by means of a second conveying device (1') as a function of this volume difference value until the desired volume is reached.

2. Claims 1-14 are allowed. The following is an examiner's statement of reasons for allowance: Applicant discloses a filling device having a detector device, which detects and counts the capsules passing a measuring point in the first feed line, a control device, which stops the first conveying device when a predetermined number of capsules is reached and compares the actual volume fed to the collecting vessel with a desired volume to be put in and forms a volume difference value and a method of filling wherein the capsules passing a measuring point in the first feed line being detected and counted, the feed of the first liquid medium containing the capsules being stopped when a predetermined number of capsules is reached, the actual volume fed to the collecting vessel being compared with a desired volume to be put in and a volume difference value being formed. European Patent Application Publication 0579467A1 to Shibauchi discloses a filling device similar to that of Applicant. However, the filling device of Shibauchi relies on statistics to determine the number of particles being dispensed in the first medium rather than detecting and counting them. US Patent 5,495,105 to Nishimura et al. discloses a device for particle manipulation and dispensing. However, the device of Nishimura detects the particles, but does not count them and the liquid medium and particles are separated after passing the detection point. The Examiner

does not find that it is obvious to combine these teachings without improper hindsight from Applicant's disclosure.

3. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nicolas A. Arnett whose telephone number is (571) 270-5062. The examiner can normally be reached on Monday - Thursday 7:00 AM to 5:00 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ken Bomberg can be reached on (571) 272-4922. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

NAA

/N. A. A./

/T. S. C./

/Thor S. Campbell/  
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